

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
Accipiter Communications, Inc.)	
(Debtor-in-Possession), Assignor)	
)	
and)	File No. ITC-T/C-2016_____
)	
Accipiter Communications, Inc., as controlled by)	
Pinpoint Holdings, Inc., Assignee)	
)	
Application for Consent to Assign Assets and/or)	
Transfer Control of Assets Pursuant to Section 214)	
of the Communications Act of 1934, as Amended)	

APPLICATION

Pursuant to Section 214 of the Communications Act of 1934, as amended (the “Act”), and Sections 63.03, 63.04, 63.12, 63.18, and 63.24 of the rules of the Federal Communications Commission (“Commission” or “FCC”), the instant application (“Application”) is respectfully submitted to request Commission approval for the assignment (“Transaction”) of the domestic and international Section 214 authorizations held by Accipiter Communications, Inc. (Debtor-in-Possession) (“Accipiter DIP”)¹ from Accipiter DIP to Accipiter Communications, Inc., as reorganized pursuant to Chapter 11 of the United States Bankruptcy Code (“Reorganized Accipiter”), which will be controlled by Pinpoint Holdings, Inc. (“Pinpoint”, and collectively with Accipiter DIP and Reorganized Accipiter, the “Applicants”). As explained herein, the Transaction

¹ Accipiter DIP operates as a resale U.S. international carrier pursuant to a Section 214 authorization issued by the FCC pursuant to Section 63.18(e)(2) of the Commission’s rules (the “International 214 Authorization”). See ITC-214-2006102600491. In addition, Accipiter DIP provides domestic telecommunications services in accordance with the blanket Section 214 authority conferred by Section 63.01 of the Commission’s rules (the “Domestic Section 214 Authorization” and, together with the International Section 214 Authorization, the “Section 214 Authorizations”). See 47 C.F.R. § 63.01. See Section IV (describing international telecommunication services of Accipiter DIP) and Section V (describing domestic telecommunication services of Accipiter DIP).

will occur in connection with Accipiter DIP's emergence from a Chapter 11 bankruptcy proceeding, as initiated by Accipiter Communications, Inc. in March 2014.

Applicants respectfully submit that this Application be afforded streamlined processing pursuant to Sections 63.03 and 63.12 of the Commission's Rules. With respect to the domestic Section 214 authority held by Accipiter DIP, the Applicants request that the FCC exercise its discretion to afford streamlined treatment on a case-by-case basis to this Application because the Transaction does not present any competitive concerns or "novel questions of fact, law, or policy which cannot be resolved under outstanding precedents and guidelines."² With respect to Accipiter DIP's international section 214 authorization, this Application is eligible for streamlined processing pursuant to Section 63.12(c) of the Commission's rules because, as described in Section IV below, none of the exclusionary criteria set forth in Section 63.12(c) apply.

In support of this Application, Applicants provide the following information:

I. DESCRIPTION OF APPLICANTS

A. Accipiter Communications, Inc. (Debtor-in-Possession)

Accipiter DIP is a Nevada corporation with its principal place of business located at 2238 West Lone Cactus Drive, Suite 100, Phoenix, Arizona 85027. Accipiter DIP is a privately-held company, with nearly 97% of its outstanding stock owned by four shareholders.³ A description of the international telecommunications services provided by Accipiter DIP is set forth at Section IV herein, and a description of the domestic telecommunications services provided by Accipiter DIP is set forth at Section V herein.

² Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations, Report and Order, 17 FCC Rcd 5517, ¶ 28 (2002) ("Streamlining Order"). *See infra* at Section V (requesting streamlined treatment for the instant Application).

³ These four shareholders are Lewis van Amerongen (52.76%), Little S Trust (20.31%), Charles Phillip Fairchild Trust (10.56%), and Patrick Sherrill (13.11%).

B. Pinpoint Holdings, Inc.

Pinpoint is a diversified communications company organized under the laws of Nebraska, with its principal place of business located at 611 Patterson Street, Cambridge, Nebraska 69022. Pinpoint is a privately-held corporation, over 70% of the stock of which is owned by four individuals, all of whom are U.S. citizens.⁴ Pinpoint does not directly provide telecommunications services but rather, through its telecommunications subsidiaries, provides local and long distance telephone services, internet services, and broadband and wireless communication services. A description of the international telecommunications services provided by Pinpoint's subsidiaries is set forth at Section IV herein, and a description of the domestic services provided by Pinpoint's telecommunications subsidiaries is set forth at Section V herein.

II. DESCRIPTION OF THE TRANSACTION

On March 28, 2014, Accipiter Communications, Inc. filed a voluntary Chapter 11 bankruptcy petition under Title II of the United States Code in the United States Bankruptcy Court for the District of Arizona ("Bankruptcy Court").⁵ Accordingly, Accipiter DIP is presently operating as a debtor-in-possession under the Bankruptcy Court's oversight. Accipiter DIP notified the FCC of the *pro forma* assignment of the Section 214 Authorizations to Accipiter DIP on September 30, 2016.⁶

On September 29, 2016, Pinpoint and the Official Committee of Unsecured Creditors filed a First Amended Chapter 11 Plan of Reorganization ("Plan") with the Bankruptcy Court. The Plan contemplates that, on and after the effective date of the Plan, Accipiter DIP will cease to be

⁴ These individuals are William E. Shoemaker (13.21%); J. Richard Shoemaker (25.83%); Eric B. Eisenhart (21.17%) and G. Franklin Shoemaker (12.72%). Other than the four aforementioned shareholders, no other individual or entity owns a 10% or greater interest in Pinpoint.

⁵ See *In re. Accipiter Communications, Inc. d/b/a Zona Communications*, Case No. 2:14-bk-04372-GBN

⁶ See ITC-ASG-20160930-00273; Letter to Ms. Marlene H. Dortch, Secretary, FCC, from Kenneth C. Johnson, Counsel for Accipiter Communications, Inc. re Domestic 214 Authority *Pro Forma* Transfer of Control (Sept. 30, 2016).

debtor-in-possession and will be reorganized in accordance with applicable bankruptcy laws. In addition, the Plan provides that, upon emergence from bankruptcy, all of the currently outstanding equity interests of Accipiter DIP will be cancelled and extinguished, and Reorganized Accipiter will authorize and issue new common stock (“New Common Stock”) to Pinpoint in exchange for \$5,250,000. As a result, Pinpoint will be the sole shareholder of the outstanding common stock of Reorganized Accipiter. The effectiveness of the Plan is contingent upon, *inter alia*, obtaining any necessary federal and state regulatory approvals for the assignment of the Section 214 Authorizations and the transfer of the ownership of Reorganized Accipiter to Pinpoint. The Bankruptcy Court confirmed the Plan on December 14, 2016, and a copy of the Confirmation Order, as entered into the Bankruptcy Court docket on December 15, 2016, is attached hereto as Attachment 1.

By this Application, Applicants seek FCC approval for the assignment of the Section 214 Authorizations from Accipiter DIP to Reorganized Accipiter under the ownership and control of Pinpoint. For the Commission’s reference, pre- and post- transaction organization charts illustrating the current and post-Transaction corporate structure are provided as Exhibit A hereto.

As set forth in Section III hereof, immediately following the Transaction, Reorganized Accipiter will continue to provide the services it is presently providing, at the same rates, terms and conditions as currently provided and there will be no change in the day-to-day operations of the company. In addition, Reorganized Accipiter will be under the ownership of Pinpoint, a company with significant expertise in the telecommunications industry. Accordingly, Reorganized Accipiter will be operated by highly experienced, well-qualified management and technical personnel.⁷

⁷ It is presently anticipated that the initial board of directors of Reorganized Accipiter will be (1) Michael B. Urdahl; (2) J. Thomas Shoemaker; and (3) Dwight ‘Doc’ Winger. In addition, it is contemplated that the initial officers of

III. PUBLIC INTEREST CONSIDERATIONS

Accipiter Communications, Inc. was formed in 1995 to provide telecommunications services to unserved or underserved, mostly rural residences and businesses in central Arizona, who previously had little or no access to any telecommunications services. Accipiter Communications, Inc. historically has provided critical telecommunications services to rural customers using revenue subsidies it receives from the Universal Service Fund, and capital debt financing provided under a rural telecommunications loan program administered by the Rural Utilities Service (“RUS”). However, beginning in approximately June 2012, Accipiter Communications, Inc. operated in a precarious cash flow posture due to its inability to obtain new financing from the RUS or negotiate a consensual restructuring of its debt with the RUS. As a result, in order to reorganize its business operations and discharge the RUS debt, in March 2014, Accipiter Communications, Inc. initiated Chapter 11 proceedings in the Bankruptcy Court. In connection with these proceedings, Pinpoint and the Official Committee of Unsecured Creditors of Accipiter DIP submitted the Plan to the Bankruptcy Court for confirmation in order to enable Accipiter DIP to emerge from bankruptcy under the ownership and control of Pinpoint. Accordingly, expeditious FCC approval of the proposed Transaction serves the public interest because it will facilitate the Debtor’s emergence from bankruptcy, which will allow Accipiter DIP to promptly complete its reorganization under Chapter 11, thereby advancing the objectives of the Bankruptcy Code.

In addition, the Commission’s prompt approval of the proposed Transaction will enable Reorganized Accipiter to escape the burdens associated with operating under bankruptcy

Reorganized Accipiter will be 1) Michael B. Urdahl, President and Chief Executive Officer; (2) Chris Karn, Chief Operations Officer, (3) Bachtiyer Kholmatov, Chief Financial Officer, (4) J. Thomas Shoemaker, Chief Technical Officer, and (5) Dwight ‘Doc’ Winger, Executive Vice President, External Affairs. *See* Exhibit B for biographies of the initial officers and directors of Reorganized Accipiter.

protections, such that the company can focus not upon its financial challenges but instead upon the provision of continuous, high-quality telecommunications and other services to its customers in rural Arizona. Indeed, upon emergence from bankruptcy, Reorganized Accipiter will operate with substantially less debt than was the case when the Accipiter Communications, Inc. initiated bankruptcy proceedings in 2014. Moreover and importantly, Reorganized Accipiter will be controlled by Pinpoint, the parent company of multiple communications service providers, and thus will benefit from Pinpoint's substantial experience in the telecommunications sector.⁸

The Transaction will not have an adverse impact on competition since no existing or potential competitors will be eliminated or in any way impaired as a result of the Transaction. Accipiter and Pinpoint's telecommunications subsidiaries each serve communities in separate states located thousands of miles apart and thus have never provided voice services in overlapping geographic areas. Indeed, upon consummation of the Transaction, the geographic areas served by Reorganized Accipiter and Pinpoint's telecommunications subsidiaries will remain unchanged, and Reorganized Accipiter and Pinpoint's telecommunications subsidiaries will continue to provide the same telecommunications services to these areas at the same rates, terms, and conditions as immediately prior to the proposed Transaction, in furtherance of the Commission's policies favoring competition and diversity of services. Accordingly, the Transaction will be transparent to retail customers and will not result in the discontinuance, reduction, loss, or impairment of service to any of Reorganized Accipiter's customers. Moreover, it is anticipated that, under the ownership of Pinpoint, Reorganized Accipiter will expand its broadband services beyond those presently offered to its customers.

⁸ See *supra* at Section II and note 7.

IV. INFORMATION REQUIRED BY SECTION 63.24

Pursuant to Section 63.24(e)(2) of the Commission’s Rules, the Applicants submit the following information requested in Section 63.18 (a)-(d) and (h)-(p) in support of this Application:

(a) Name, address and telephone number of each Applicant:

Assignor:

Accipiter Communications, Inc. (Debtor-in-Possession) FRN: 0025897828
2238 West Lone Cactus Drive, Suite 100
Phoenix, AZ 85027
Tel: (623) 455-4500

Assignee/Transferee:

Accipiter Communications, Inc. FRN: 0004269833
2238 West Lone Cactus Drive, Suite 100
Phoenix, AZ 85027
Tel: (623) 455-4500

Pinpoint Holdings, Inc. FRN: 0001566967
611 Patterson Street
Cambridge, NE 69022
Tel: (308) 697-3375

(b) Jurisdiction of Applicants:

Accipiter DIP is organized under the laws of the State of Nevada. Pinpoint is organized under the laws of the State of Nebraska.

(c) Correspondence concerning this Application should be sent to:

For Accipiter DIP:

Kenneth C. Johnson
Herman & Whiteaker, LLC
6720-B Rockledge Drive, Suite 150
Bethesda, MD 20817
(202) 827-0664 (Tel)
(202) 706-6056 (Fax)
ken@hermanwhiteaker.com

For Reorganized Accipiter and Pinpoint:

Tom W. Davidson
Akin Gump Strauss Hauer & Feld, LLP
1333 New Hampshire Avenue, N.W.
Washington, DC 20036
(202) 887-4000 (Tel)
(202) 887-4288 (Fax)
tdavidson@akingump.com

(d) **Section 214 Authorizations Held**

Accipiter DIP provides interstate service pursuant to blanket domestic Section 214 authority. Accipiter DIP has international Section 214 authority pursuant to File No. ITC-214-2006102600491.

Pinpoint does not hold international or domestic Section 214 authority. The following direct subsidiaries of Pinpoint hold FCC Section 214 authority:

- Pinpoint Communications, Inc. provides interstate service pursuant to blanket domestic Section 214 authority and has filed an application for international Section 214 authority to provide international global switched resale services as described in ITC-214-20161109-02411.
- Cambridge Telephone Company provides interstate service pursuant to blanket domestic Section 214 authority.

(h) **Pre-Transaction Ownership of Accipiter DIP:**

The following individuals currently hold a ten percent (10%) or greater ownership interest in Accipiter DIP:

Name: Lewis W. Van Amerongen
Address: 509 Madison Avenue, #2300
New York, NY 10022
Citizenship: U.S.
Interest Held: 52.76%
Principal Business: Finance

Name: Little S Trust
Address: c/o 2238 West Cactus Drive, #100
Phoenix, AZ 85027
Citizenship: U.S.
Interest Held: 20.31%
Principal Business: Trust

Name: Charles Phillip Fairchild Trust
Address: c/o 2238 West Cactus Drive, #100
Phoenix, AZ 85027
Citizenship: U.S.
Interest Held: 10.56%
Principal Business: Trust

Name: Patrick Sherrill
Address: c/o 2238 West Cactus Drive, #100
Phoenix, AZ 85027
Citizenship: U.S.

Interest Held: 13.11%
Principal Business: Telecom

No other individual or entity, directly or indirectly, currently owns a ten percent (10%) or greater ownership interest in Accipiter DIP.

Post-Transaction Ownership of Reorganized Accipiter:

The following entity will hold a ten percent (10%) or greater ownership interest in **Reorganized Accipiter:**

Name: Pinpoint Holdings, Inc.
Address: 611 Patterson Street
Cambridge, NE 69022,
Citizenship: Nebraska, U.S.
Interest Held: 100%
Principal Business: Telecommunications/Parent Company

The following individuals will hold a ten percent (10%) or greater ownership interest in **Pinpoint Holdings, Inc.:**

Name: J. Richard Shoemaker
Address: c/o Pinpoint Holdings, Inc.
611 Patterson Street
Cambridge, Nebraska 69022
Citizenship: U.S.
Interest Held: 25.83%
Principal Business: Telecom

Name: Eric B. Eisenhart
Address: c/o Pinpoint Holdings, Inc.
611 Patterson Street
Cambridge, Nebraska 69022
Citizenship: U.S.
Interest Held: 21.17%
Principal Business: Attorney

Name: William E. Shoemaker
Address: c/o Pinpoint Holdings, Inc.
611 Patterson Street
Cambridge, Nebraska 69022
Citizenship: U.S.
Interest Held: 13.21%
Principal Business: Retired Banker

Name: G. Franklin Shoemaker
Address: c/o Pinpoint Holdings, Inc.
611 Patterson Street

Cambridge, Nebraska 69022
Citizenship: U.S.
Interest Held: 12.72%
Principal Business: Attorney

Other than the individuals set forth above, no other entity or individual will hold a ten percent (10%) or greater direct or indirect ownership interest in Pinpoint following the Transaction.

To the best of Pinpoint's knowledge, there are no officers or directors of Pinpoint who also serve as an officer or director of a foreign carrier as defined in Section 63.09(d).

- (i) Pinpoint certifies that following consummation of the Transaction that it will not be a foreign carrier within the meaning of Section 63.09(d) of the Commission's Rules, 47 C.F.R. § 63.09(d).
- (j) Pinpoint certifies that through the acquisition of control of Reorganized Accipiter it does not seek to provide international telecommunications services to any destination country where:
 - 1. Pinpoint is a foreign carrier in that country; or
 - 2. Pinpoint controls a foreign carrier in that country; or
 - 3. Any entity that owns more than 25 percent of Pinpoint, or controls Pinpoint, controls a foreign carrier in that country; or
 - 4. Two or more foreign carriers (or parties that control foreign carriers) own, in the aggregate more than 25 percent of Pinpoint and are parties to, or the beneficiaries of, a contractual relation affecting the provision or marketing of international basic telecommunications services in the United States.
- (k) N/A.
- (l) [Reserved].
- (m) N/A.
- (n) Pinpoint certifies that it has not agreed to accept special concessions directly or indirectly from any foreign carrier with respect to any U.S. international route where the foreign carrier possesses market power on the foreign end of the route and will not enter into such agreements in the future.
- (o) Applicants certify that they are not subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1998. See 21 U.S.C. § 853a. See also 47 C.F.R. §§ 1.2001-1.2003.

- (p) Applicants respectfully submit that this Application is eligible for streamlined processing pursuant to Section 63.12(a)-(b) of the Commission's Rules because, as demonstrated herein, the exceptions to streamlined processing that are stated in Section 63.12(c) do not apply to the Applicants.

V. INFORMATION REQUIRED BY SECTION 63.04

In lieu of an attachment, pursuant to Section 63.04(b) of the Commission's rules, Applicants submit the following information in support of their request for domestic Section 214 authority in order to address the requirements set forth in Sections 63.04(a)(6)-(12) of the Commission's rules:

- (a)(6) A description of the proposed Transaction is set forth in Section II above.
- (a)(7) Accipiter DIP operates as an incumbent local exchange carrier to serve portions of Maricopa County, Arizona and Yavapai County, Arizona, pursuant to a Certificate of Convenience and Necessity granted by the Arizona Corporation Commission in 1995. In these areas, Accipiter provides local exchange and long distance telephone services, with approximately 1,966 access lines. In addition to regulated telephone services, Accipiter DIP also provides deregulated services, including broadband Internet access and DirecTV® television services in the aforementioned geographic areas.

Pinpoint does not itself offer any domestic telecommunications services. Its subsidiaries, Cambridge Telephone Company, Pinpoint Communications, and Pinpoint Wireless offer domestic telecommunications services as follows:⁹

- Pursuant to a certificate of public convenience and necessity to provide telecommunications services in the State of Nebraska, Cambridge Telephone Company is a rural, incumbent local exchange carrier and, in this capacity, provides local exchange voice services and long distance telephone services in the communities of Cambridge and Bartley, Nebraska, with approximately 1,035 access lines. Cambridge Telephone Company also offers a variety of broadband voice and data services, including broadband Internet access and IPTV, in the communities of Bartley and Cambridge, Nebraska.
- Pursuant to a certificate of public convenience and necessity to operate as a competitive local exchange carrier in the State of Nebraska and, in this capacity, Pinpoint Communications provides local exchange carrier and long distance telephone services in the communities of Gothenburg, McCook, and Oxford, Nebraska, with approximately 970 access lines.

⁹ In addition to the telecommunications authorizations discussed herein, Pinpoint Communications and Pinpoint Wireless also hold several licenses issued by the FCC to provide various wireless radio services.

Pinpoint Communications provides DSL services in McCook and Oxford, Nebraska, and offers a variety of broadband voice and data services, including broadband Internet access and IPTV, in the communities of Bartley, Beaver City, Cambridge, Gothenburg, Indianola, McCook and Oxford, Nebraska.¹⁰

- Pinpoint Wireless provides fixed and mobile wireless voice and data services in the communities of McCook, Cambridge, Indianola, Arapahoe, Danbury, Hendley, Lebanon, and Wilsonville, Nebraska.

(a)(8) Applicants respectfully request that the Commission afford streamlined processing to the instant Application.¹¹ As described herein, consummation of the Transactions will enable Accipiter DIP to emerge from bankruptcy under the control of Pinpoint, an entity with extensive experience in the telecommunications industry. Importantly, Accipiter DIP and Pinpoint (through its telecommunications subsidiaries (“Pinpoint Subsidiaries”)) serve communities in separate states located thousands of miles apart and thus the Pinpoint Subsidiaries have never provided voice services in geographic areas that overlap with the geographic areas in which Accipiter DIP provides voice services. Indeed, upon consummation of the Transaction, Reorganized Accipiter will continue to serve portions of Maricopa County, Arizona and Yavapai County, Arizona, and the Pinpoint Subsidiaries will continue to serve communities in Nebraska. These services will be provided at the same rates, terms, and conditions as immediately prior to the proposed transaction. Accordingly, this Application does not present any competitive concerns or “novel questions of fact, law, or policy which cannot be resolved under outstanding precedents and guidelines.”¹²

(a)(9) Applicants seek authority with respect to both international and domestic Section 214 authorizations (this Application is being separately and concurrently filed with respect to both types of Section 214 authorizations in compliance with Section 63.04(b) of the Commission’s rules). Accipiter DIP also holds wireless licenses and, concurrently herewith, the Applicants are filing applications to assign these licenses to Reorganized DIP, as controlled by Pinpoint. No other applications are being filed with the Commission with respect to this Transaction.

¹⁰ The specific services offered vary on a community-by-community basis. Pinpoint Communications also offers cable television service to the communities of Beaver City, Indianola and Oxford, Nebraska.

¹¹ See, e.g., Streamlining Order at ¶¶ 24, 28 (“Streamlining Order”); 47 C.F.R. § 63.04(a).

¹² Streamlining Order at ¶ 28. See, e.g., Domestic Section 214 Application Filed for the Transfer of Control of Millry Corporation, WC Docket No. 16-260, Public Notice, DA 16-994 (rel. August 31, 2016) (affording case-by-case streamlined processing to application where applicants (1) have never provided voice service in overlapping geographic markets and (2) stated that the areas served, and the telecommunications service provided, by applicants would remain unchanged after consummation of the proposed transaction); Domestic Section 214 Application Filed for the Transfer of Control of Walnut Telephone Company, Inc. to Marne & Elk Horn Telephone Company, WC Docket No. 16-226 (filed July. 13, 2016) (same).

- (a)(10) Prompt completion of the proposed Transaction is important because it will enable Reorganized Accipiter to emerge from bankruptcy and will effectuate the Plan as confirmed by the Bankruptcy Court. Accordingly, for the reasons set forth in Section III hereof, Applicants respectfully request that the Commission approve this Application expeditiously in order to allow Applicants to consummate the proposed Transaction as soon as possible.
- (a)(11) Not applicable.
- (a)(12) A statement showing how grant of the application will serve the public interest, convenience and necessity is provided in Section III above.

VI. CONCLUSION

For the reasons stated above, Applicants respectfully submit that the public interest, convenience, and necessity would be furthered by a grant of this Application.

Respectfully submitted,

Kenneth C. Johnson
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Counsel for Accipiter DIP and
Shareholders of Accipiter DIP

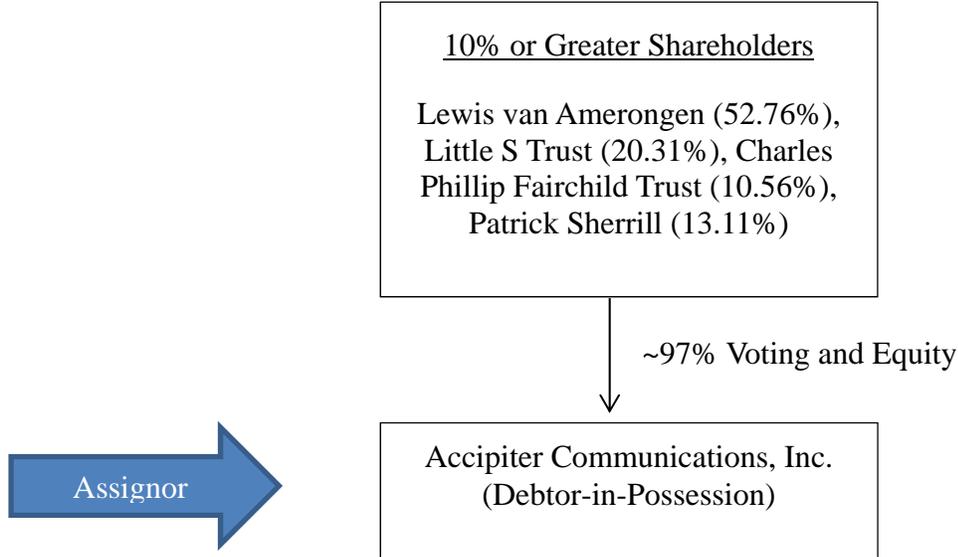
Dated: December 15, 2016

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Counsel for Pinpoint Holdings, Inc.

Exhibit A
Ownership Structure Charts

Ownership Structure During Chapter 11 Process



Ownership Structure Upon Consummation of Proposed Transaction

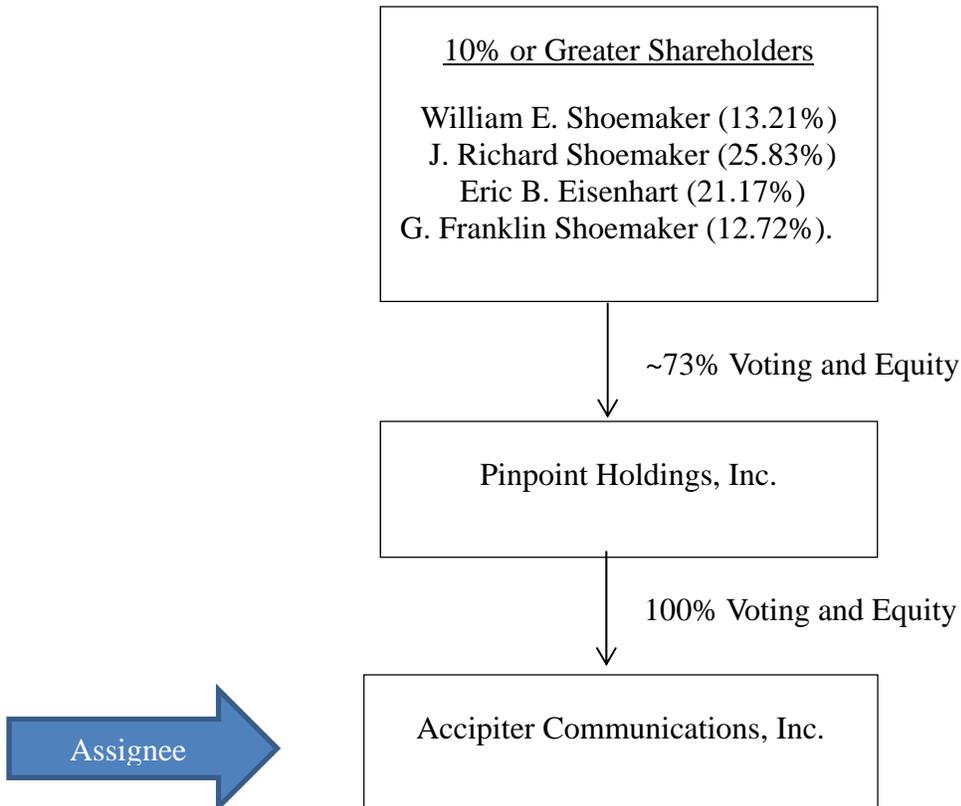


Exhibit B

Biographies of Officers and Directors of Reorganized Accipiter

Michael B. Urdahl: Mike Urdahl currently serves as President and CEO of Pinpoint Holdings, Inc. Mike has been in the communications industry since 1984 and previously spent 22 years as Vice President of Operations and Government Affairs at Great Plains Communications in Nebraska. Mike held various roles which involved all aspects of operations, including outside plant, engineering, cable TV, marketing, and Internet services. He also spent many years representing the company at the Nebraska Public Service Commission and the Nebraska Unicameral, as well as the US Congress and the Federal Communications Commission. Mr. Urdahl also spent 5 years as part of the senior management team for Signal Telecom Partners. Signal owned and operated rural Independent local exchange carriers in 7 states. In this role, Mike oversaw all aspects of the companies, including capital expenditures, regulatory compliance, and day-to-day operations.

Chris Karn: Mr. Karn has over 25 years of management experience in the cable and telecommunications industry. Karn started his career in the cable industry and has managed large and small cable operations across the United States. He has worked for companies such as Tele-Communications Inc., and Charter Communications. Karn has vast experience in building and operating cable networks, fiber and lit services networks, as well as wireless microwave backhaul networks. Karn serves as the COO for Pinpoint Holdings, Inc. and President of Pinpoint Services, Inc. In his role as president, he oversees the day to day operations of Pinpoint Services that focuses on tower services such as line and antenna, tower modifications, service works and well as full turnkey civil solutions. As COO, he oversees the day to day operations of the various operating entities the company serves, as well as playing a key role in business development.

Bachtiyer Kholmatov: Bachtiyer is the Chief Financial Officer (CFO) of Pinpoint Holdings, Inc. Mr. Kholmatov joined Pinpoint in 2008 as VP Finance and was promoted to CFO position in 2010. He is responsible for the oversight of all financial affairs of Pinpoint companies, strategic financial planning, M&A activities as well as management of Finance/Accounting team. Mr. Kholmatov has over 20 years of professional experience. Prior to joining Pinpoint he held positions in finance and accounting roles in various industries including international trade, food processing/manufacturing, IT/software and consulting services. Mr. Kholmatov holds an MBA from the University of Nebraska-Lincoln with emphasis in Finance; and BA in Economics from Novosibirsk State University (Russia).

J. Thomas Shoemaker: Tom currently serves as Executive Vice President of Pinpoint Communications Inc., Cambridge Telephone Company and Pinpoint Wireless, Inc. d/b/a BLAZE Wireless. As Executive Vice President, he is in charge of the day to day operations of the sister companies. He is responsible for expanding and improving the retail businesses associated with the Pinpoint companies. He also is directly involved with the regulatory processes that impact the business. He deals directly with the Nebraska Public Service Commission, Federal Communications Commission, USAC, NECA, as well as other local and

national regulatory bodies and telecom industry organizations. Shoemaker also plays an instrumental role in expanding Pinpoint's competitive markets. This includes deploying Voice, Video, and Data services in new locations including the most recent wireless and IPTV launches in Southwest Nebraska. Mr. Shoemaker has been in the telecom industry for 15 years. He holds a Bachelor of Science Degree of Business Administration from Ashford University. Tom has been employed by Pinpoint for 15 years. He is active in the local Economic Development Corporation, is the past President of the Cambridge Community Investment Group, LLC, is the Chairman of the Nebraska Telecommunications board of directors and is on the Wireless E911 advisory council.

Dwight 'Doc' Winger: Dwight 'Doc' Winger became Executive Vice-President, External Relations of Pinpoint Holdings, Inc., effective January 1, 2016. Before that, he had served as Executive Vice-President, External Relations and Vice-President for Governmental Relations and Business Development for Pinpoint Holdings, Inc., since September 1, 2012. Before assuming his position at Pinpoint, Winger had more than 30 years of telecommunications policy experience as an employee at the Nebraska Legislature, the Nebraska Public Service Commission and in the telecom industry in Nebraska. Winger started as a Legislative Aide in 1980 and spent eight years working for the Speaker of the Legislature and the Banking, Commerce and Insurance Committee Chairman. From early 1988 until late 1994, he served as the Executive Director of the Nebraska Public Service Commission. He then spent two years as President of the Nebraska Telecommunications Association. Immediately prior to coming to Pinpoint, for 16 years Winger was President of SBW Consulting, a division of Strain, Slattery Barkley, CPAs, a Lincoln-based firm providing services to Independent telecommunications providers. As President of SBW Consulting, he was responsible for developing policy strategies for his clients as well as assisting clients with their strategic planning. He is generally recognized as a preeminent Nebraska expert in rural telecommunications policy and is routinely called on to present seminars to policy makers and their staffs on telecommunications policy and finance history. He holds a Bachelors of Science Degree from Nebraska Wesleyan University (History) and a Masters of Public Administration (with an emphasis in Public Policy) from the University of Nebraska at Omaha.

Attachment 1

Confirmation Order (next page)

Dated: December 15, 2016



UNITED STATES BANKRUPTCY
DISTRICT ARIZONA

A handwritten signature in black ink, appearing to read "George Nielsen".

George B. Nielsen, Bankruptcy Judge

In re

ACCIPITER COMMUNICATIONS,
INC., d/b/a ZONA
COMMUNICATIONS,

Debtor.

Chapter 11
Case No. 2:14-bk-04372-GBN

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER
CONFIRMING SECOND AMENDED
CHAPTER 11 PLAN OF
REORGANIZATION PROPOSED BY
PINPOINT HOLDINGS, INC. AND THE
OFFICIAL COMMITTEE OF
UNSECURED CREDITORS**

1 Accipiter Communications, Inc. (d/b/a Zona Communications), as debtor and debtor in
2 possession in the above-captioned chapter 11 case (the “**Debtor**”), having:¹

- 3 a. commenced, on March 28, 2014 (the “**Petition Date**”), the above-captioned
4 chapter 11 case (the “**Chapter 11 Case**”) by filing a voluntary petition for relief
5 under title 11 of the United States Code (the “**Bankruptcy Code**”) in the United
6 States Bankruptcy Court for the District of Arizona (the “**Court**”);
- 7 b. operated its businesses and managed its properties during the Chapter 11 Case as a
8 debtor in possession pursuant to Bankruptcy Code sections 1107(a) and 1108;

9 The Plan Proponents having:

- 10 a. jointly proposed and filed the (i) *First Amended Chapter 11 Plan of Reorganized*
11 *Proposed by Pinpoint Holdings, Inc. and the Official Committee of Unsecured*
12 *Creditors*, dated October 25, 2016 [Docket No. 329] (as amended by the *Second*
13 *Amended Chapter 11 Plan of Reorganized Proposed by Pinpoint Holdings, Inc.*
14 *and the Official Committee of Unsecured Creditor*, filed on December 12, 2016
15 [Docket No. 368] and as further modified, amended or supplemented from time to
16 time, the “**Plan**”) and (ii) *First Amended Disclosure Statement in Support First*
17 *Amended Chapter 11 Plan of Reorganized Proposed by Pinpoint Holdings, Inc.*
18 *and the Official Committee of Unsecured Creditors*, dated October 25, 2016
19 [Docket No. 331] (the “**Disclosure Statement**”);
- 20 b. filed, on September 29, 2016, the *Motion for Order: (A) Approving Disclosure*
21 *Statement; (B) Approving Plan Solicitation Procedures; and (C) Scheduling*
22 *Confirmation Hearing* [Docket No. 314] (the “**Solicitation Motion**”);
- 23 c. distributed, on October 3, 2016, the Disclosure Statement and appropriate
24 Solicitation Packages, including those Ballots for those holders of Claims in
25 Classes 3 and 4 entitled to vote on the Plan (the “**Voting Classes**”), in accordance
26 with the terms of the Bankruptcy Code, the Federal Rules of Bankruptcy
27 Procedure (the “**Bankruptcy Rules**”) and the Local Rules of Bankruptcy
28 Procedure for the District of Arizona (the “**Local Rules**”) and as approved by
order of this Court on November 1, 2016 [Docket No. 339] (the “**Disclosure**
Statement Order”) and as evidenced by the *Certificate of Service* [Docket No.
316];
- d. filed and served, on November 2, 2016, the *Notice of Plan Confirmation Hearing*
[Docket No. 345] (the “**Confirmation Hearing Notice**”), as evidenced by the
Certificate of Service and Notice of Compliance with Order [Docket No. 353];

¹ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Plan, Disclosure Statement or Solicitation Motion (each, as defined below), as applicable. The rules of interpretation set in the Plan shall apply to this Confirmation Order.

- 1 e. filed, on November 29, 2016, the *Notice of Proposed Assumption of Certain*
2 *Executory Contracts and Unexpired Leases and Setting Forth the Cure Amounts*
3 [Docket No. 358] (the “**Cure Notice**”), as evidenced by the *Certificate of Service*
4 filed on November 30, 2016 [Docket No. 359] and the *Supplemental Certificate of*
5 *Service* filed December 8, 2016 [Docket No. 366];
- 6 f. filed, on November 30, 2016, the *Supplement to Chapter 11 Plan of*
7 *Reorganization Proposed by Pinpoint Holdings, Inc. and the Official Committee*
8 *of Unsecured Creditors* (the “**Plan Supplement**”) [Docket No. 360] and the
9 *Notice of Filing of Supplement to Chapter 11 Plan of Reorganization Proposed by*
10 *Pinpoint Holdings, Inc. and the Official Committee of Unsecured Creditors*
11 [Docket No. 361] as evidenced by the *Certificate of Service* [Docket No. 365]
12 (collectively with the other affidavits of service referenced in sub-sections (c)-(e)
13 above, the “**Notice Affidavits**”);
- 14 g. filed, on December 8, 2016, the *Ballot Report* [Docket No. 367], which details the
15 results of the Plan voting process;
- 16 h. filed a *Notice of Lodging Prior to Hearing of Proposed Findings of Fact,*
17 *Conclusions of Law and Order Confirming the Second Amended Chapter 11 Plan*
18 *of Reorganized Proposed by Pinpoint Holdings, Inc. and the Official Committee*
19 *of Unsecured Creditors*, on December 12, 2016 [Docket No. 371], with a
20 proposed draft of these *Findings of Fact, Conclusions of Law and*
21 *Order Confirming the Second Amended Chapter 11 Plan of Reorganized*
22 *Proposed by Pinpoint Holdings, Inc. and the Official Committee of Unsecured*
23 *Creditors* (together with all the exhibits hereto, the “**Proposed Confirmation**
24 **Order**”); and
- 25 i. filed, on December 12, 2016, the *Declaration of Bachtiyer Kholmatov in Support*
26 *of Confirmation of the Second Amended Chapter 11 Plan of Reorganized*
27 *Proposed by Pinpoint Holdings, Inc. and the Official Committee of Unsecured*
28 *Creditors* [Docket No. 370] (the “**Kholmatov Declaration**”);

The Court having:

- 20 a. entered, on November 1, 2016, the Disclosure Statement Order;
- 21 b. set December 7, 2016 as the date and time by which any votes on the Plan shall be
22 due (the “**Voting Deadline**”), as set forth in the Disclosure Statement Order;
- 23 c. set December 7, 2014 at 5:00 p.m. (Arizona Time), as the date and time by which
24 any objections to Confirmation of the Plan shall be due (the “**Plan Objection**
25 **Deadline**”), as set forth in the Disclosure Statement Order;
- 26 d. set December 14, 2014 at 1:30 p.m. (Arizona Time), as the date and time for the
27 commencement of a hearing to consider confirmation of the Plan, as set forth in
28 the Disclosure Statement Order, and as held on December 14, 2016 at 1:30 p.m.
(Arizona Time) (the “**Confirmation Hearing**”);

- 1 e. reviewed the Plan, the Disclosure Statement, the Plan Supplement, the Ballot
2 Report, the Confirmation Hearing Notice, the Cure Notice, the Notice Affidavits,
3 the Khlomatov Declaration and all filed pleadings, exhibits, statements and
4 comments regarding Confirmation;
- 5 f. admitted into evidence the Ballot Report and the Khlomatov Declaration at the
6 Confirmation Hearing;
- 7 g. received no objections regarding Confirmation;
- 8 h. held the Confirmation Hearing, after due and sufficient notice was given to
9 holders of Claims against, and Equity Interests in, the Debtor and other parties in
10 interest in accordance with the Disclosure Statement Order, the Bankruptcy Code,
11 the Bankruptcy Rules and the Local Rules, in each case as established by the
12 Notice Affidavits;
- 13 i. heard statements and arguments made by counsel in respect of Confirmation;
- 14 j. considered all oral representations, testimony, documents, filings and other
15 evidence regarding Confirmation at the Confirmation Hearing held on December
16 14, 2016;
- 17 k. ruled on any and all objections to the Plan and the Confirmation Order and all
18 statements and reservations of rights not consensually resolved or withdrawn,
19 unless otherwise indicated; and
- 20 l. considered all pleadings and other documents filed, all orders entered, and all
21 evidence and arguments presented in the Chapter 11 Case.

22 **NOW, THEREFORE,** it appearing to the Court that notice of the Confirmation Hearing
23 and the opportunity for any party in interest to object to Confirmation of the Plan have been
24 adequate and appropriate as to all parties affected or to be affected by the Plan and the
25 transactions contemplated thereby, and the legal and factual bases set forth in the documents
26 filed in support of approval of Confirmation and other evidence presented at the Confirmation
27 Hearing establish just cause for the relief granted herein; and after due deliberation thereon and
28 good cause appearing therefor, the Court makes and issues the following findings of fact and
conclusions of law:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

IT IS HEREBY DETERMINED, FOUND AND ADJUDGED THAT:

A. Findings and Conclusions

1. The findings and conclusions set forth herein and in the record of the Confirmation Hearing, including the Khlomatov Declaration and the Ballot Report, constitute the Court's findings of fact and conclusions of law under Rule 52 of the Federal Rules of Civil Procedure, as made applicable herein by Bankruptcy Rules 7052 and 9014. To the extent any of the following conclusions of law shall be determined to be a finding of fact, it shall be so deemed, or any of the following findings of fact shall be determined to be a conclusion of law, it shall be so deemed.

B. Jurisdiction, Venue and Core Proceeding

2. This Court has jurisdiction over the Chapter 11 Case pursuant to 28 U.S.C. §§ 157 and 1334. This Court has exclusive jurisdiction to determine whether the Plan complies with the applicable provisions of the Bankruptcy Code and should be approved and confirmed, respectively. Venue is proper in this District and before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. Confirmation of the Plan is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). The Plan Proponents are proper plan proponents under section 1121(a) of the Bankruptcy Code.

C. Eligibility for Relief

3. The Debtor was and is an entity eligible for relief under Bankruptcy Code section 109.

D. Commencement of the Chapter 11 Case

4. On the Petition Date, the Debtor commenced a voluntary case under chapter 11 of the Bankruptcy Code. Since the Petition Date, the Debtor has operated its businesses and managed its properties as a debtor in possession pursuant to Bankruptcy Code sections 1107(a) and 1108. No trustee or examiner has been appointed in the Chapter 11 Case.

1 **E. Objections**

2 5. Any resolutions of objections to Confirmation explained on the record at the
3 Confirmation Hearing are hereby incorporated by reference. Any and all unresolved objections,
4 statements, informal objections, and reservations of rights, if any, related to the Plan or
5 Confirmation are either resolved or overruled on the merits by this Confirmation Order.

6 **F. Burden of Proof—Confirmation of the Plan**

7 6. The Plan Proponents have met their burden of proving the applicable elements of
8 Bankruptcy Code section 1129(a) by a preponderance of the evidence, which is the applicable
9 evidentiary standard for Confirmation.

10 **G. Notice**

11 7. Notice of (a) the Plan and the Plan Supplement, (b) the Confirmation Hearing, (c)
12 the Voting Deadline, (d) the Plan Objection Deadline, (e) the entry of the Disclosure Statement
13 Order and (f) the Solicitation Packages has been provided and such notice was adequate and
14 sufficient pursuant to Bankruptcy Code section 1128, Bankruptcy Rules 2002(b), 3017 and 3020,
15 the Disclosure Statement Order and all other applicable law, rules and orders of this Court, and
16 no other or further notice is or shall be required.

17 **H. Solicitation**

18 8. As described in the Ballot Report and the Notice Affidavits, as applicable, Ballots
19 to vote to accept or reject the Plan were transmitted and served upon members of the Voting
20 Classes on November 2, 2016, in compliance with the Bankruptcy Code, including sections 1125
21 and 1126 thereof, the Bankruptcy Rules, including Bankruptcy Rules 3017 and 3018, the Local
22 Rules, the Disclosure Statement Order and any applicable non-bankruptcy law, rule or
23 regulation. Transmission and service of the Solicitation Packages, including the Ballots and the
24 Confirmation and Hearing Notice, were timely, adequate and sufficient. No further notice is
25 required. As evidenced by the mailing of the Solicitation Packages on November 2, 2016 and
26 the Voting Deadline of December 7, 2016, the thirty-five (35) calendar days during which the
27 Plan Proponents solicited acceptances or rejections to the Plan was a reasonable and sufficient
28

1 period of time for holders of Claims in the Voting Classes to make an informed decision to
2 accept or reject the Plan.

3
4 9. Under Bankruptcy Code section 1126(f) and as approved by the Disclosure
5 Statement Order, the Plan Proponents were not required to solicit votes from holders of Claims
6 in Classes 1 and 2 because such holders are deemed to accept the Plan. In addition, under
7 Bankruptcy Code section 1126(g) and as approved by the Disclosure Statement Order, the Plan
8 Proponents were not required to solicit votes from holders of Equity Interests in Class 5 because
9 such holders are deemed to reject the Plan.

10 10. As described in and as evidenced by the Ballot Report and the Notice Affidavits,
11 the transmittal and service of the Plan, the Plan Supplement, the Disclosure Statement, the
12 Ballots and the Confirmation Hearing Notice (all of the foregoing, the “**Solicitation**”) was
13 timely, adequate and sufficient. The Solicitation complied with the procedures set forth in the
14 Solicitation Motion and approved in the Disclosure Statement Order, was appropriate and
15 satisfactory based upon the circumstances of the Chapter 11 Case, was conducted in good faith,
16 and was in compliance with the provisions of the Bankruptcy Code, the Bankruptcy Rules, the
17 Local Rules and any other applicable non-bankruptcy law, rule and regulation. The persons and
18 entities involved in the offer, issuance or purchase of securities under the Plan acted in good faith
19 and in compliance with the provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local
20 Rules and any other applicable non-bankruptcy law, rule and regulation. The Exculpated Parties
21 (as defined below) are each entitled to the protection of Bankruptcy Code section 1125(e).

22 **I. Voting**

23 11. The Ballot Report is hereby approved. As evidenced by the Ballot Report, votes
24 to accept or reject the Plan have been solicited and tabulated fairly, in good faith, and in
25 compliance with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the procedures as
26 approved by the Disclosure Statement Order and any applicable non-bankruptcy law, rule and
27 regulation. All Classes identified as not impaired under the Plan are deemed to accept the Plan,
28

1 and all Classes identified as impaired under the Plan and not entitled to receive any distribution
2 are deemed to reject the Plan.

3 **J. Plan Supplement**

4 12. The Plan Supplement complies with the Bankruptcy Code and the terms of the
5 Plan, and the filing and notice of such documents is good and proper in accordance with the
6 Bankruptcy Code, the Bankruptcy Rules and the Local Rules and the Disclosure Statement
7 Order, and no other or further notice is required. All documents included in the Plan Supplement
8 are integral to, part of, and incorporated by reference into the Plan. Subject to the terms of the
9 Plan, the Plan Proponents reserve the right to amend or modify the Plan Supplement at any time
10 prior to the Effective Date.

11 **K. Compliance with Bankruptcy Code Requirements—Section 1129(a)(1)**

12 13. As detailed below, the Plan complies with all applicable provisions of the
13 Bankruptcy Code, thereby satisfying Bankruptcy Code section 1129(a)(1):

14 a. **Proper Classification—Sections 1122 and 1123(a)(1).** The Plan
15 satisfies the requirements of Bankruptcy Code sections 1122(a) and
16 1123(a)(1). In addition to Administrative Claims, Professional Fee
17 Claims, and Priority Tax Claims identified in Article II of the Plan, which
18 need not be classified, Article III of the Plan provides for the separate
19 classification of Claims and Equity Interests into five Classes of Claims
20 and Equity Interests. Valid business, factual and legal reasons exist for the
21 separate classification of such Classes of Claims and Equity Interests. The
22 classifications reflect no improper purpose and do not unfairly
23 discriminate between, or among, holders of Claims or Equity Interests.
24 Each Class of Claims and Equity Interests contains only Claims or
25 Interests that are substantially similar to the other Claims or Equity
26 Interests within that Class.

27 b. **Specified Classes That Are Not Impaired—Section 1123(a)(2).** The
28 Plan satisfies the requirements of Bankruptcy Code section 1123(a)(2).
Article III of the Plan specifies that Claims and Equity Interests, as
applicable, in the following Classes are not impaired under the Plan within
the meaning of Bankruptcy Code section 1124:

Class	Designation
Class 1	Priority Claims
Class 2	Miscellaneous Secured Claims

1 Additionally, Article II of the Plan specifies that Administrative Claims,
2 Professional Fee Claims, and Priority Tax Claims will be paid in full in
3 accordance with the terms of the Plan, although these Claims are not
4 classified under the Plan.

- 5 c. **Specified Treatment of Impaired Classes—Section 1123(a)(3).** The
6 Plan satisfies the requirements of Bankruptcy Code section 1123(a)(3).
7 Article III of the Plan specifies the treatment of the following Classes of
8 Claims and Equity Interests, as applicable, that are impaired under the
9 Plan within the meaning of Bankruptcy Code section 1124:

Class	Designation
Class 3	RUS Loan Claims
Class 4	General Unsecured Claims
Class 5	Equity Interests and Equity Related Claims

- 10 d. **No Discrimination—Section 1123(a)(4).** The Plan satisfies the
11 requirements of Bankruptcy Code section 1123(a)(4). The Plan provides
12 the same treatment by the Plan Proponents for each Claim or Interest in
13 each respective Class unless the holder of a particular Claim or Interest
14 has agreed to a less favorable treatment of such Claim or Interest.

- 15 e. **Adequate Means for Plan Implementation—Section 1123(a)(5).** The
16 Plan satisfies the requirements of Bankruptcy Code section 1123(a)(5).
17 Article IV of the Plan and various other provisions in the Plan, the exhibits
18 and attachments to the Plan, the Plan Supplement and the Disclosure
19 Statement, provide, in detail, adequate and proper means for the Plan's
20 implementation, including regarding: (i) sources of Cash for Plan
21 distributions; (ii) the Exit Facility; (iii) the restructuring transactions to
22 effectuate the Plan; (iv) the formation of the Unsecured Creditor Trust; (v)
23 the Restated Governance Documents, which authorize, among other
24 things, the issuance of the New Common Stock; (vi) the cancellation of all
25 notes, instruments and outstanding Equity Interests; and (vii) the vesting
26 of the property of the Estate free and clear of all Liens and Claims existing
27 before the Effective Date. Moreover, Reorganized Accipiter will have,
28 immediately upon the Effective Date, sufficient Cash to make all
payments required to be made on the Effective Date or as soon as
reasonably practicable thereafter, pursuant to the terms of the Plan.

- f. **Non-Voting Equity Securities—Section 1123(a)(6).** Section 4.05 of the
Plan provides that the Restated Governance Documents will include a
prohibition on the issuance of non-voting equity securities to the extent
required by Bankruptcy Code section 1123(a) and (b). Non-voting equity
securities are not being issued under the Plan, thereby satisfying
Bankruptcy Code section 1123(a)(6).

- 1 g. **Directors and Officers—Section 1123(a)(7).** The Plan satisfies the
2 requirements of Bankruptcy Code section 1123(a)(7). Section 4.11 of the
3 Plan and the Disclosure Statement contain provisions regarding the
4 identity and affiliations of the Initial Board of Directors and the Initial
5 Officers on the Effective Date. The manner of selection of Reorganized
6 Accipiter’s Initial Board of Directors and Initial Officers is consistent with
7 the interests of all holders of Claims and Equity Interests and public
8 policy.
- 9 h. **Impairment / Unimpairment of Classes—Section 1123(b)(1).** The Plan
10 is consistent with Bankruptcy Code section 1123(b)(1). Under Article III
11 of the Plan each Class of Claims and Equity Interests is impaired or not
12 impaired.
- 13 i. **Assumption and Cure of Defaults—Section 1123(b)(2).** The Plan is
14 consistent with Bankruptcy Code section 1123(b)(2). Article V of the
15 Plan provides for the rejection of all executory contracts and unexpired
16 leases other than those executory contracts or unexpired leases that: (i) are
17 designated as an exhibit to the Plan Supplement as assumed; (ii) have been
18 assumed by a separate Final Order of the Bankruptcy Court; (iii) are the
19 subject of a motion to assume pending on the Effective Date; or (iv) are
20 assumed pursuant to the terms of the Plan.
- 21 j. **Avoidance Actions, Litigation Claims—Section 1123(b)(3).** The Plan is
22 consistent with Bankruptcy Code section 1123(b)(3). In accordance with
23 Bankruptcy Code section 1123(b)(3)(A), Article VII of the Plan
24 appropriately provides that Avoidance Actions and Litigation Claims are
25 retained and reserved for Reorganized Accipiter, which is designated as
26 the Estate’s representative under Bankruptcy Code § 1123(b)(3)(B) for
27 purposes of the Avoidance Actions and Litigation Claims. In addition, in
28 accordance with Bankruptcy Code section 1123(b)(3)(B), Section 7.2 of
the Plan appropriately provides that Reorganized Accipiter has the sole
authority to prosecute, defend, compromise, settle, and otherwise deal
with any Avoidance Actions and Litigation Claims, and does so in its
capacity as a representative of the Estate in accordance with Bankruptcy
Code § 1123(b)(3)(B). No Avoidance Actions or Litigation Claims will
be brought by Reorganized Accipiter against the holders of Claims listed
on the Claims Schedule. Reorganized Accipiter will pay the fees and
costs associated with litigating the Avoidance Actions and the Litigation
Claims. Reorganized Accipiter has sole discretion to determine in its
business judgment which Avoidance Actions and Litigation Claims to
pursue, which to settle, and the terms and conditions of those settlements.
The provisions regarding the preservation of Litigation Claims and
Avoidance Actions in the Plan are appropriate, fair, equitable and
reasonable, and are in the best interests of the Debtor, the Estate and
holders of Claims and Equity Interests.

1 k. **Additional Plan Provisions—Section 1123(b)(6).** The other
2 discretionary provisions of the Plan are appropriate and consistent with the
3 applicable provisions of the Bankruptcy Code, thereby satisfying section
4 Bankruptcy Code 1123(b)(6).

5 l. **Bankruptcy Rule 3016(a).** The Plan is dated and identifies the Plan
6 Proponents as the proponents submitting it, thereby satisfying Bankruptcy
7 Rule 3016(a).

8 **L. Compliance with the Bankruptcy Code—Section 1129(a)(2)**

9 14. The Plan Proponents also have satisfied the requirements of Bankruptcy Code
10 section 1129(a)(2). Specifically, the Debtor is an eligible debtor under Bankruptcy Code section
11 109, and the Plan Proponents are proper proponents of the Plan under Bankruptcy Code section
12 1121(a). The Plan Proponents have complied with all applicable provisions of the Bankruptcy
13 Code, except as otherwise provided or permitted by orders of the Court, including Bankruptcy
14 Code sections 1125 and 1126, the Bankruptcy Rules, the Local Rules, any applicable non-
15 bankruptcy law, rule and regulation, the Disclosure Statement Order and all other applicable law,
16 in transmitting the Solicitation Packages, and related documents and notices, and in soliciting
17 and tabulating the votes on the Plan.

18 **M. Plan Proposed in Good Faith—Section 1129(a)(3)**

19 15. The Plan satisfies the requirements of Bankruptcy Code section 1129(a)(3). The
20 Plan Proponents have proposed the Plan (including all documents necessary to effectuate the
21 Plan) and the transactions contemplated in the Plan in good faith and not by any means forbidden
22 by law. In so determining, the Court has examined the totality of the circumstances surrounding
23 the filing of the Chapter 11 Case, the Plan itself, the process leading to approval of the
24 Disclosure Statement, Confirmation of the Plan and the transactions to be implemented pursuant
25 thereto. The Chapter 11 Case was filed, and the Plan was proposed, with legitimate and honest
26 purposes, including (a) a restructuring of the Debtor's debt obligations and (b) preservation of
27 the going concern value of the Debtor's businesses and maximization of value to creditors. The
28 Plan Proponents' good faith is evident from the facts and record of the Chapter 11 Case, the
Disclosure Statement, the record of the hearing on the Disclosure Statement, and the record of

1 the Confirmation Hearing and other proceedings held in the Chapter 11 Case. The Plan
2 (including all documents necessary to effectuate the Plan) was negotiated in good faith and at
3 arm's length among representatives of the Purchaser and the Committee and each of their
4 respective professionals and other representatives. Further, the Plan's classification, exculpation,
5 and injunction provisions have been negotiated in good faith and at arm's length, are consistent
6 with Bankruptcy Code sections 105, 1122, 1123(b)(6), 1123(b)(3)(A), 1129 and 1142 and are
7 each necessary for the Debtor's successful reorganization.

8 **N. Payment for Services or Costs and Expenses—Section 1129(a)(4)**

9 16. Any payment made or to be made by the Plan Proponents or by a person issuing
10 securities or acquiring property under the Plan for services or for costs and expenses in
11 connection with the Chapter 11 Case, or in connection with the Plan and incidental to the
12 Chapter 11 Case, has been approved by, or is subject to the approval of, the Court as reasonable,
13 thereby satisfying Bankruptcy Code section 1129(a)(4).

14 **O. Directors, Officers and Insiders—Section 1129(a)(5)**

15 17. The Plan Proponents have satisfied the requirements of Bankruptcy Code section
16 1129(a)(5). Section 5(h) of the Disclosure Statement discloses the identity and affiliations of the
17 individuals proposed to serve as the Initial Board of Directors and the Initial Officers, and the
18 identity and nature of any compensation for any insider who will be employed or retained by
19 Reorganized Accipiter. The proposed directors and officers for Reorganized Accipiter are
20 qualified, and the appointments to, or continuance in, such offices by the proposed directors and
21 officers is consistent with the interests of the holders of Claims and Equity Interests and with
22 public policy.

23 **P. No Rate Changes—Section 1129(a)(6)**

24 18. Bankruptcy Code section 1129(a)(6) is not applicable to the Chapter 11 Case.
25 The Plan does not provide for any rate change that requires regulatory approval.
26
27
28

1 **Q. Best Interest of Creditors—Section 1129(a)(7)**

2 19. The Plan satisfies the requirements of Bankruptcy Code section 1129(a)(7).
3 Section 8(c) of the Disclosure Statement and the liquidation analysis contained in Appendix 4 to
4 the Disclosure Statement, and the other evidence related thereto in support of the Plan that was
5 proffered and accepted at the Confirmation Hearing: (a) are reasonable, persuasive, credible and
6 accurate as of the dates such analysis or evidence was prepared, presented or proffered; (b)
7 utilize reasonable, customary and appropriate methodologies and assumptions; (c) have not been
8 controverted by other evidence; and (d) establish that each holder of an Impaired Claim or
9 Equity Interest either has accepted the Plan or will receive or retain under the Plan, on account
10 of such Claim or Equity Interest, property of a value, as of the Effective Date, that is not less
11 than the amount such holder would receive or retain if the Debtor was liquidated under chapter 7
12 of the Bankruptcy Code on such date.

13 **R. Acceptance by Certain Classes—Section 1129(a)(8)**

14 20. The Plan does not satisfy the requirements of Bankruptcy Code section 1129(a)(8)
15 but is nevertheless confirmable because the Plan Proponents have satisfied the requirements of
16 Bankruptcy Code sections 1129(a)(10) and 1129(b) to “cram down” the rejecting Classes, as set
17 forth below. Specifically, Classes 1 and 2 are not impaired and thus deemed to accept the Plan.
18 Classes 3 and 4, which are impaired, voted to accept the Plan by the requisite majorities. With
19 respect to Class 5, which is both impaired and deemed to reject the Plan, the Plan Proponents
20 cannot satisfy section 1129(a)(8) with respect to that Class.

21 **S. Treatment of Claims Entitled to Priority Under Bankruptcy Code Section 507(a)—**
22 **Section 1129(a)(9)**

23 21. The Plan satisfies the requirements of Bankruptcy Code section 1129(a)(9). The
24 treatment of Administrative Claims, Professional Fee Claims and Priority Tax Claims under
25 Article II of the Plan satisfies the requirements of, and complies in all respects with, Bankruptcy
26 Code section 1129(a)(9).
27
28

1 **T. Acceptance By At Least One Impaired Class—Section 1129(a)(10)**

2 22. The Plan satisfies the requirements of Bankruptcy Code section 1129(a)(10). As
3 evidenced by the Ballot Report, the Voting Classes voted to accept the Plan by the requisite
4 numbers and amounts of Claims, determined without including any acceptance of the Plan by
5 any insider (as that term is defined in Bankruptcy Code section 101(31)), specified under the
6 Bankruptcy Code.

7 **U. Feasibility—Section 1129(a)(11)**

8 23. The Plan satisfies the requirements of Bankruptcy Code section 1129(a)(11). The
9 projections in Appendix 3.2 to the Disclosure Statement and the evidence supporting
10 Confirmation of the Plan proffered, accepted and admitted into evidence by the Court at, or prior
11 to, or in a declaration filed in connection with, the Confirmation Hearing, including, without
12 limitation, the Kholmatov Declaration: (a) is reasonable, persuasive, credible and accurate as of
13 the dates such analysis or evidence was prepared, presented or proffered; (b) utilizes reasonable
14 and appropriate methodologies and assumptions; (c) has not been controverted by other
15 evidence; (d) establishes that the Plan is feasible and Confirmation of the Plan is not likely to be
16 followed by the liquidation, or the need for further financial reorganization of Reorganized
17 Accipiter or any successor to Reorganized Accipiter under the Plan, except as provided in the
18 Plan; and (e) establishes that Reorganized Accipiter will have sufficient funds available to meet
19 their obligations under the Plan.

20 **V. Payment of Fees—Section 1129(a)(12)**

21 24. The Plan satisfies the requirements of Bankruptcy Code section 1129(a)(12). All
22 fees payable under 28 U.S.C. § 1930(a) as of the Effective Date are Administrative Claims.
23 Section 2.02 of the Plan provides for the payment of all Administrative Claims (which includes
24 fees payable under 28 U.S.C. § 1930(a) as of the Effective Date) on the Effective Date. Section
25 12.14 of the Plan provides that Reorganized Accipiter is responsible for paying any post-
26 Effective Date fees arising under 28 U.S.C. § 1930(a).

1 **W. Non-Applicability of Certain Sections—Sections 1129(a)(13), (14), (15) and (16)**

2 25. Bankruptcy Code sections 1129(a)(13), 1129(a)(14), 1129(a)(15) and 1129(a)(16)
3 do not apply to the Chapter 11 Case. The Debtor has no liability for retiree benefits or the
4 payment of retiree benefits (as defined in Bankruptcy Code section 1114), do not owe any
5 domestic support obligations, are not individuals and are not nonprofit corporations.

6 **X. Fair and Equitable Treatment; No Unfair Discrimination—Section 1129(b)**

7 26. The Plan is fair and equitable and does not unfairly discriminate with respect to
8 the treatment of Claims and Equity Interests and thus satisfies Bankruptcy Code section 1129(b)
9 in all respects. Specifically, the Plan satisfies Bankruptcy Code section 1129(b)(2) because (a)
10 the Plan provides for a full recovery for holders of Claims in Classes 1 and 2, (b) holders of
11 Claims in the Voting Classes (Classes 3 and 4) have consented to receive their respective
12 treatment under the Plan and (c) no holder of an Equity Interest in a Class junior to those in Class
13 5 will receive or retain any property under the Plan. In addition, the Plan's treatment of Claims
14 and Equity Interests is proper, as similarly-situated creditors will receive substantially similar
15 treatment irrespective of class, and the respective distributions and treatments under the Plan take
16 into account and conform to the relative priority and rights of the Claims and Equity Interests in
17 each Class. Notwithstanding the Plan Proponents' inability to satisfy Bankruptcy Code section
18 1129(a)(8), the Plan is still confirmable because it meets all the applicable requirements of
19 Bankruptcy Code section 1129(a) other than section 1129(a)(8), does not discriminate unfairly
20 and is fair and equitable with respect to the Class of Equity Interests (Class 5) that is impaired
21 and has not accepted the Plan.

22 **Y. Only One Plan—Section 1129(c)**

23 27. The Plan satisfies the requirements of Bankruptcy Code section 1129(c). The
24 Plan is the only chapter 11 plan that was both filed and solicited in the Chapter 11 Case.

25 **Z. Principal Purpose of the Plan—Section 1129(d)**

26 28. The principal purposes of the Plan are (a) the reorganization of the Debtor as a
27 going concern and (b) the maximization of the value of the Estate, all of which are for the benefit
28

1 of creditors. No party in interest has requested that the Court deny Confirmation of the Plan on
2 the grounds that the principal purpose of the Plan is the avoidance of taxes or the avoidance of
3 the application of section 5 of the Securities Act of 1933 (as amended, and including the rules
4 and regulations promulgated thereunder, the “**Securities Act**”). In addition, the principal
5 purpose of the Plan is not such avoidance. The Plan thus satisfies the requirements of
6 Bankruptcy Code section 1129(d).

7 **AA. Good Faith Solicitation—Section 1125(e)**

8 29. Each of the Debtor, the Committee, the Purchaser, Reorganized Accipiter, and
9 any of their respective members, officers, directors, employees, advisors, professionals, or agents
10 (collectively, the “**Exculpated Parties**”) have acted in “good faith” within the meaning of
11 Bankruptcy Code section 1125(e) and in compliance with the applicable provisions of the
12 Bankruptcy Code and Bankruptcy Rules in connection with, related to, or arising out of, the
13 Chapter 11 Case, the pursuit of confirmation of the Plan, the consummation of the Plan, or the
14 administration of the Plan or the property to be distributed under the Plan. As a result, such
15 parties have no liability to any holder of a Claim or Equity Interest for any post-petition act or
16 omission in connection with, related to, or arising out of, the Chapter 11 Case, the pursuit of
17 confirmation of the Plan, the consummation of the Plan, or the administration of the Plan or the
18 property to be distributed under the Plan, except for willful misconduct, a breach of fiduciary
19 duty arising from something more wrongful than mere negligence, gross negligence, or fraud,
20 and such parties are entitled to the protections afforded by Bankruptcy Code section 1125(e).

21 **BB. Satisfaction of Confirmation Requirements**

22 30. Based on the foregoing, the Plan satisfies the requirements for Confirmation set
23 forth in Bankruptcy Code section 1129.

24 **CC. Likelihood of Satisfaction of Conditions Precedent to the Effective Date**

25 31. Each of the conditions precedent to the Effective Date, as set forth in Section 8.2
26 of the Plan, has been or is reasonably likely to be satisfied or waived in accordance with Section
27 8.3 of the Plan.

1 **DD. Implementation**

2 32. All documents necessary to implement the Plan, including those contained in the
3 Plan Supplement, and all other relevant and necessary documents have been negotiated in good
4 faith and at arm's length and shall, upon completion of documentation and execution, be valid,
5 binding and enforceable agreements and shall not be in conflict with any applicable law, rule or
6 regulation.

7 **EE. Disclosure of Facts**

8 40. The Plan Proponents have disclosed all material facts regarding the Plan.

9 **FF. Good Faith**

10 41. The Plan Proponents, the Debtor, Reorganized Accipiter and the Exculpated
11 Parties have been and will be acting in good faith if they proceed to: (a) consummate the Plan
12 and the agreements, settlements, transactions and transfers contemplated thereby and (b) take the
13 actions authorized and directed by this Confirmation Order.

14 **GG. Retention of Jurisdiction**

15 42. The Court may properly retain jurisdiction over the matters set forth in Section
16 10.1 of the Plan and/or Bankruptcy Code section 1142.

17 **HH. Waiver of Bankruptcy Rule 3020(e)**

18 43. Based on the business exigencies in the Chapter 11 Case, it is appropriate for the
19 14- day stay imposed by Bankruptcy Rule 3020(e) to be waived.

20
21 IT IS HEREBY ORDERED, ADJUDGED, DECREED AND DETERMINED THAT:

22 **CONFIRMATION OF THE PLAN**

23
24 1. **Findings of Fact and Conclusions of Law.** The above-referenced findings of
25 fact and conclusions of law are hereby incorporated by reference as though fully set forth herein
26 and shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052,
27 made applicable herein by Bankruptcy Rule 9014. To the extent any of the following
28

1 conclusions of law shall be determined to be a finding of fact, it shall be so deemed, or any of the
2 following findings of fact shall be determined to be a conclusion of law, it shall be so deemed.

3
4 **2. Confirmation of the Plan.** The Plan, including each of the documents that
5 comprise the Plan Supplement, is approved and confirmed under Bankruptcy Code section 1129
6 with respect to the Debtor. The documents contained in the Plan Supplement (including any
7 amendments, modifications and supplements thereto and documents referred to in such papers
8 consistent with the Plan) and execution, delivery and performance thereof by the Plan
9 Proponents and the Debtor are authorized and approved. The terms of the Plan, including the
10 Plan Supplement, are incorporated by reference into and are an integral part of this Confirmation
11 Order.

12 **3. Objections.** All objections, responses to, statements, comments and reservations
13 of rights, if any, in opposition to, the Plan, other than those withdrawn with prejudice in their
14 entirety prior to, or on the record at, the Confirmation Hearing, shall be, and hereby are,
15 overruled in their entirety or are otherwise resolved as incorporated herein.

16 **IMPLEMENTATION OF THE PLAN**

17
18 **4. Sources of Cash for Plan Distributions.** All Cash necessary for Reorganized
19 Accipiter to make payments pursuant to the Plan shall be obtained from existing Cash balances
20 of the Debtor and Reorganized Accipiter (including the payment of the Purchase Price by the
21 Purchaser) and the operations of the Debtor or Reorganized Accipiter, as applicable. Cash
22 payments on account of Allowed Claims under the Plan and any Cure required under Section
23 5.03 of the Plan, are made from Reorganized Accipiter's Cash.

24 **5. Exit Facility.** On the Effective Date, Reorganized Accipiter shall enter into the
25 Exit Facility. The Exit Facility shall be substantially in the form, or on the terms, set forth in the
26 Plan Supplement, and shall be in form and substance acceptable to the Purchaser. Among other
27 terms, the security granted by Reorganized Accipiter to the lender in connection with the Exit
28

1 Facility shall include a specific and limited lien subordination on the Office Building. Such
2 Office Building lien shall be provided as security for the Installment Payments required to be
3 made to the holders of General Unsecured Claims under Article 3.04 of the Plan.

4
5 **6. Restructuring Transactions.** On the Effective Date, 100% of the New Common
6 Stock for Reorganized Accipiter will be issued to the Purchaser in exchange for the Purchase
7 Price pursuant to the terms of the Plan. As of the Effective Date, Reorganized Accipiter shall be
8 deemed to have assumed and to have agreed to pay, perform and satisfy all liabilities that
9 become Allowed Claims that are to receive distributions and are not discharged under the Plan

10 **7. Formation of the Unsecured Creditor Trust.** On the Effective Date, the
11 Unsecured Creditor Trust shall be formed in order to hold the lien granted on behalf of Class 4
12 unsecured creditors to secure the Installment Payments. The Committee has selected
13 Christopher Linscott to be the Unsecured Creditor Trustee. The Deed of Trust and Assignment
14 of Rents was filed as part of the Plan Supplement.

15 **8. Restated Governance Documents.** As of the Effective Date and without any
16 further action by the directors of the Debtor or Reorganized Accipiter, the Debtor's corporate
17 governance documents are amended and restated substantially in the forms of the Restated
18 Governance Documents. The Restated Governance Documents, among other things, authorize
19 the issuance of the New Common Stock and prohibit (to the extent required by Bankruptcy Code
20 § 1123(a) and (b)) the issuance of non-voting equity securities. After the Effective Date,
21 Reorganized Accipiter may amend its corporate governance documents as permitted by
22 applicable law.

23
24 **9. Necessary Documents/Information.** The Debtor and Reorganized Accipiter and
25 their officers and directors are authorized, empowered and directed to sign any documents
26 necessary to effect any provision of the Plan, including any such documents reasonably
27 requested by the Purchaser. The Debtor and its officers and directors are expressly authorized
28

1 and directed to deliver to the Purchaser documentation evidencing the minimum Cash on hand
2 balance and the Net Working Capital when requested by the Purchaser. The Debtor and its
3 officers and directors are authorized and directed to provide the Purchaser with reasonable and
4 prompt access to the Debtor's employees and records and, promptly, with all relevant
5 information pertaining to the Debtor's operations, to assist with the closing of the transactions
6 contemplated in the Plan when requested by the Purchaser. Notwithstanding anything to the
7 contrary herein, the Debtor and its officers and directors are authorized, empowered and directed
8 (a) to take all actions in order to consummate the terms of this Plan and the transactions
9 hereunder including, without limitation, making all necessary applications, requests, notices and
10 other filings and notifications (collectively, the "**Regulatory Filings**") to obtain or maintain all
11 FCC Approvals and State PUC Approvals and (b) to execute any such other documents or filings
12 prior to the Effective Date required, or reasonably requested by the Purchaser, to consummate
13 the transactions contemplated in the Plan. For the avoidance of doubt, the Regulatory Filings
14 made by the Debtor shall be in form and substance acceptable to the Purchaser. Further, the
15 Purchaser shall act in good faith in making such Regulatory Filings and shall use commercial
16 reasonable efforts to obtain the FCC Approvals and State PUC Approvals as promptly as is
17 practicable and permitted under applicable law.

18
19 **10. Cancellation of Instruments and Agreements.** On the Effective Date, all
20 agreements, instruments, and other documents relating to any Equity Interests, including the
21 Equity Interests themselves, automatically terminate such that all obligations under all such
22 agreements, instruments, and other documents are deemed fully and finally extinguished.

23 **11. Dismissal of Adversary Proceeding.** Prior to the Effective Date, the Bankruptcy
24 Court shall enter an order dismissing the Adversary Proceeding with prejudice, which dismissal
25 shall become effective only upon the Effective Date and payment of the Purchase Price, and the
26 Committee and RUS shall lodge the stipulated Order dismissing the Adversary Proceeding and
27 shall each execute and deliver agreed upon written releases of the other parties to the Adversary
28

1 Proceeding which shall be limited to their claims asserted in the pleadings in the Adversary
2 Proceeding and effective only upon the Effective Date and payment of the Purchase Price.

3
4 **12. Effecting Documents; Further Transactions; Timing.** The Debtor and
5 Reorganized Accipiter and all other parties any agreement or instrument to be executed under the
6 Plan must, as of the Effective Date and without further order of the Bankruptcy Court, execute,
7 deliver, file, or record all contracts, instruments, releases, and other agreements or documents
8 contemplated in the Plan, and take all actions necessary or appropriate to effect and further
9 evidence the terms of the Plan. All transactions required to occur on the Effective Date under the
10 terms of the Plan are deemed to have occurred simultaneously. RUS shall execute any release
11 and/or other necessary documents to evidence and effectuate the release of its liens that the
12 Purchaser reasonably requests.

13 **13. No Corporate Action Required.** As of the Effective Date, (a) the adoption,
14 execution, delivery, and implementation of all documents, contracts, leases, instruments,
15 releases, and other agreements related to or contemplated by the Plan, and (b) the other matters
16 provided for under, or in furtherance of, the Plan involving corporate action required of the
17 Debtor, are deemed to have occurred, are effective, binding, and enforceable in accordance with
18 their respective terms, and are deemed authorized and approved in all respects without further
19 order of the Bankruptcy Court or any further action by the Debtor's officers, directors, or
20 shareholders.

21 **14. Post-Effective Date Management.** On the Effective Date or as soon as
22 reasonably practicable thereafter, the directors and officers identified in Section 4.11 of the Plan
23 shall serve as Initial Board of Directors and Initial Officers. After the Effective Date, the
24 corporate governance and management of the Reorganized Accipiter shall be determined by the
25 board of directors in accordance with the laws of the applicable state of organization.
26
27
28

1 15. **Vesting of Assets.** Except as provided in the Plan or this Confirmation Order, all
2 property of the Estate vests in Reorganized Accipiter on the Effective Date free and clear of all
3 Liens and Claims existing before the Effective Date. From and after the Effective Date,
4 Reorganized Accipiter may use and dispose of its property free of any restrictions of the
5 Bankruptcy Code, including the employment of, and payment to, Professionals except as
6 otherwise provided in the Plan or the Confirmation Order.

7
8 16. **Governmental Approvals Not Required.** Except as otherwise stated in the
9 Plan, this Confirmation Order shall constitute all approvals and consents required, if any, by the
10 laws, rules, or regulations of any state or other governmental authority with respect to the
11 dissemination, implementation or consummation of the Plan, the Disclosure Statement, any
12 documents, instruments or agreements, and any amendments or modifications thereto, and any
13 other transactions referred to in, or contemplated by, the Plan and the Disclosure Statement,
14 without any requirement for further action by the Plan Proponents or the Debtor.

15 17. **Section 1145 Exemption.** In accordance with Bankruptcy Code § 1145, the
16 issuance of the New Common Stock under the Plan is exempt from all federal, state, or local law
17 requiring registration for offer or sale of a security or registration or licensing of an issuer of,
18 underwriter of, or broker or dealer in a security.

19 18. **Exemption from Transfer Taxes.** To the fullest extent permitted by Bankruptcy
20 Code § 1146(a): (a) the issuance, distribution, transfer, and exchange of assets or property of the
21 Estate; (b) the execution, assignment, modification, or recording of any lease or sublease; and (c)
22 the execution, delivery, or recording of a deed or other instrument of transfer under, in
23 furtherance of, or in connection with, the Plan, the Confirmation Order, or any transaction
24 contemplated above, or any transactions arising out of, contemplated by, or in any way related
25 to, the foregoing are not subject to any document recording tax, stamp tax, conveyance fee,
26 intangibles or similar tax, mortgage tax, or real estate transfer tax, or other similar tax or
27 governmental assessment and the appropriate state or local government officials or agents are
28

1 directed to forego the collection of any such tax or assessment and to accept for filing or
2 recordation any of the foregoing instruments or other documents without the payment of any
3 such tax or assessment.

4
5 19. **Dissolution of the Committee.** The Committee shall continue in existence until
6 the Effective Date to exercise those powers and perform those duties specified in Bankruptcy
7 Code section 1103 and shall perform such other duties as it may have been assigned by the
8 Bankruptcy Court prior to the Effective Date. On the Effective Date, the Committee shall be
9 dissolved and the Committee's members shall be deemed released of all their duties,
10 responsibilities and obligations in connection with the Chapter 11 Case or the Plan and its
11 implementation, and the retention or employment of the Committee's Professionals shall
12 terminate.

13 AVOIDANCE ACTIONS, LITIGATION CLAIMS

14 20. **Retention and Reservation.** All Avoidance Actions and Litigation Claims are
15 retained and reserved for Reorganized Accipiter, which is designated as the Estate's
16 representative under Bankruptcy Code § 1123(b)(3)(B) for purposes of the Avoidance Actions
17 and Litigation Claims, in accordance with Article 7 of the Plan and the Plan Supplement.

18
19 21. **Prosecution.** Reorganized Accipiter has the sole authority to prosecute, defend,
20 compromise, settle, and otherwise deal with any Avoidance Actions and Litigation Claims, and
21 does so in its capacity as a representative of the Estate in accordance with Bankruptcy Code
22 § 1123(b)(3)(B). Reorganized Accipiter will pay the fees and costs associated with litigating the
23 Avoidance Actions and the Litigation Claims. Reorganized Accipiter has sole discretion to
24 determine in its business judgment which Avoidance Actions and Litigation Claims to pursue,
25 which to settle, and the terms and conditions of those settlements. No Avoidance Actions or
26 Litigation Claims will be brought by Reorganized Accipiter against the holders of Claims listed
27 on the Claims Schedule.

EXECUTORY CONTRACTS AND UNEXPIRED LEASES

1
2 **22. Assumption of Executory Contracts and Unexpired Leases.** In accordance
3 with Article V of the Plan, all executory contracts and unexpired leases will be deemed rejected
4 as of the Effective Date in accordance with the provisions and requirements of sections 365 and
5 1123 of the Bankruptcy Code except those executory contracts and unexpired leases that (i) are
6 designated as an exhibit to the Plan Supplement as assumed, (ii) have been assumed by a
7 separate Final Order of the Bankruptcy Court, (iii) are the subject of a motion to assume pending
8 on the Effective Date or (iv) are assumed pursuant to the terms of the Plan. The listing of a
9 document in the Plan Supplement shall not constitute an admission by the Debtor or the Plan
10 Proponents that such document is an executory contract or an unexpired lease or that the Debtor
11 or Reorganized Accipiter has any liability thereunder. Unless a party to an executory contract or
12 lease listed on the Schedule of Assumed Contracts and Leases filed in the Plan Supplement
13 timely filed an objection to the Cure amount, the Cure amount listed on the Schedule of
14 Assumed Contracts and Leases will govern and payment of such Cure amount by Reorganized
15 Accipiter will constitute a cure of all monetary defaults under such executory contract or lease.

16
17 **23. Rejection Claims Bar Date.** All Rejection Claims must be filed by the Rejection
18 Claims Bar Date. Any Rejection Claim not filed by the Rejection Claims Bar Date is forever
19 barred. All Rejection Claims are General Unsecured Claims under the Plan. With respect to any
20 executory contract or unexpired lease rejected by the Debtor before the Effective Date, the
21 deadline for filing a Rejection Claim remains the deadline set forth in the order of the
22 Bankruptcy Court authorizing that rejection. If the order did not contain such a deadline, the
23 deadline for filing a Rejection Claim is 30 days after the Effective Date.

24 **24. Administrative Claims Bar Date.** All requests for payment of an Administrative
25 Claim (other than a Professional Fee Claim) must be served (i) if prior to the Effective Date, on
26 the Debtor and the Plan Proponents or (ii) on or after the Effective Date, Reorganized Accipiter,
27 and filed with the Bankruptcy Court no later than the Administrative Claims Bar Date. Any
28

1 holder of an Administrative Claim (other than a Professional Fee Claim) that fails to file and
2 serve its request by the Administrative Claims Bar Date is forever barred from asserting its
3 Administrative Claim against the Debtor or Reorganized Accipiter.

4 **RELEASES, INJUNCTIONS, STAYS**

5
6 25. **Discharge.** Except as provided in the Plan or the Confirmation Order: (a) the
7 rights granted under this Plan and the treatment of Claims and Equity Interests under this Plan
8 are in exchange for and in complete satisfaction, discharge, and release of, all Claims including
9 any interest accrued on any Claim from the Petition Date; and (b) confirmation of this Plan
10 discharges the Debtor and Reorganized Accipiter from all Claims or other debts that arose before
11 the Effective Date to the fullest extent allowed under Bankruptcy Code § 1141(a), (b), (c), and
12 (d)(1).

13 26. **Pre-Effective Date Injunctions or Stays.** All injunctions or stays, whether by
14 operation of law or by order of the Bankruptcy Court, provided for in the Chapter 11 Case
15 pursuant to Bankruptcy Code sections 105 or 362 or otherwise that are in effect on the
16 Confirmation Date shall remain in full force and effect until the Effective Date.

17
18 27. **Injunction and Exculpation Provisions Under the Plan.** The release,
19 injunctions and exculpation provisions set forth in Sections 9.3 and 9.4 of the Plan are approved
20 and authorized in their entirety, and such provisions shall be effective and binding on all Persons
21 and Entities to the extent provided in the Plan.

22 28. **Indemnification Obligations.** Any obligation of the Debtor to indemnify any
23 Person serving as a fiduciary of any employee benefit plan of the Debtor under charter, bylaws,
24 contract, or applicable state law is an executory contract and is rejected as of the Effective Date.
25 Any obligation of the Debtor to indemnify, reimburse, or limit the liability of any Person,
26 including any officer or director of the Debtor, or any agent, professional, financial advisor, or
27 underwriter of any securities issued by the Debtor related to any acts or omissions occurring
28

1 before the Petition Date is rejected under the Plan as of the Confirmation Date if the Effective
2 Date occurs. Any Claim resulting from these rejections in favor of any Person must be filed by
3 the Rejection Claims Bar Date and constitutes a General Unsecured Claim. Notwithstanding any
4 of the foregoing, nothing contained in the Plan or in this Confirmation Order affects the rights of
5 any Person covered by an applicable D&O Policy with respect to such policy.

6 PLAN CONSUMMATION AND EFFECTIVENESS

7
8 29. **Waiver of Stay.** For good cause shown, the stay of this Confirmation Order
9 provided by Bankruptcy Rule 3020(e) is waived, and this Confirmation Order shall be effective
10 and enforceable immediately upon its entry by the Court.

11 30. **Authorization to Consummate.** The Plan Proponents are authorized to
12 consummate the Plan at any time after the entry of this Confirmation Order subject to
13 satisfaction or waiver (by the required parties) of the conditions precedent to effectiveness set
14 forth in Section 8.2 of the Plan.

15 31. **Failure of Consummation.** If the Effective Date does not occur, then nothing
16 contained in the Plan shall (a) constitute a waiver or release of any Claims against or Equity
17 Interests in the Debtor; (b) prejudice in any manner the rights of the holder of any Claim against,
18 or Equity Interest in, the Debtor (c) prejudice in any manner any right, remedy or Claim of the
19 Debtor; (d) be deemed an admission against interest by the Debtor; or (e) constitute a settlement,
20 implicit or otherwise, of any kind whatsoever.

21
22 32. **Substantial Consummation.** On the Effective Date, the Plan shall be deemed to
23 be substantially consummated under Bankruptcy Code sections 1101 and 1127, notwithstanding
24 any post-Effective Date, non-material, technical modifications thereto.

25
26 33. **Notice of Confirmation.** In accordance with Bankruptcy Rules 2002 and
27 3020(c), the Plan Proponents shall serve notice of entry of this Confirmation Order, substantially

1 in the form attached hereto as **Exhibit A** (the “**Confirmation Order Notice**”), on the “core”
2 notice parties and all holders of Claims and Equity Interests and within ten (10) Business Days
3 after the date of entry of this Confirmation Order. The form of the Confirmation Order Notice is
4 hereby approved in all respects.

5
6 34. **Notice of Effective Date.** The Plan Proponents shall file with the Bankruptcy
7 Court a notice of the occurrence of the Effective Date within 3 business days after the conditions
8 in Section 8.2 of the Plan have been satisfied or waived pursuant to Section 8.3, and the Effective
9 Date has occurred (the “**Effective Date Notice**”). The Effective Date Notice shall be filed in the
10 main Chapter 11 Case and the Adversary Proceeding. Notwithstanding the above, no notice of
11 Confirmation or consummation or service of any kind shall be required to be mailed or made
12 upon any Entity to whom the Plan Proponents mailed notice of the Confirmation Hearing, but
13 received such notice returned marked “undeliverable as addressed,” “moved, left no forwarding
14 address” or “forwarding order expired,” or similar reason, unless the Plan Proponents have been
15 informed in writing by such Entity, or are otherwise aware, of that Entity’s new address. The
16 above-referenced notices are adequate under the particular circumstances of the Chapter 11 Case,
17 and no other or further notice is necessary.

18 **OTHER MATTERS**

19 35. **Binding Effect.** Upon the occurrence of the Effective Date, all provisions of the
20 Plan are binding on, and inure to the benefit of, the Debtor and the holders of all Claims and
21 Equity Interests and their respective successors and assigns. All agreements, instruments and
22 other documents filed in connection with the Plan shall have full force and effect, and shall bind
23 all parties thereto, subject to the occurrence of the Effective Date, upon the entry of the
24 Confirmation Order, whether or not such exhibits actually shall be executed by parties other than
25 the Plan Proponents or the Debtor, or shall be issued, delivered or recorded on the Effective Date
26 or thereafter. The rights, benefits and obligations of any entity named or referred to in the Plan
27
28

1 shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor
2 or assign of such entity.

3
4 **36. Severability.** If the Bankruptcy Court or any appellate court finds the Plan or any
5 provision of the Plan to be invalid, illegal or unenforceable, or if the Bankruptcy Court cannot
6 confirm the Plan under Bankruptcy Code § 1129, the Bankruptcy Court, at the Purchaser's
7 request, with the consent of the Committee not to be unreasonably withheld, or Reorganized
8 Accipiter's request, may retain the power to alter and interpret the Plan or any such provision to
9 make it valid or enforceable to the maximum extent feasible, consistent with the original purpose
10 of the provision held to be invalid or unenforceable, and such provision then becomes applicable
11 as altered or interpreted. This Confirmation Order constitutes a judicial determination and
12 provides that each term and provision of the Plan, as it may have been altered or interpreted in
13 accordance with the foregoing, is valid and enforceable.

14 **37. Post-Confirmation Modifications.** After the Confirmation Date but before
15 substantial consummation of the Plan as defined in Bankruptcy Code § 1101(2), the Plan
16 Proponents or Reorganized Accipiter may, under Bankruptcy Code § 1127(b), institute
17 proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any incon-
18 sistencies in the Plan, the Disclosure Statement, or the Confirmation Order, and any matters
19 necessary to carry out the Plan's purposes as long as those proceedings do not materially and
20 adversely affect the treatment of holders of Claims or Equity Interests under the Plan. The Plan
21 Proponents or Reorganized Accipiter must serve prior notice of those proceedings in accordance
22 with the Bankruptcy Rules or applicable order of the Bankruptcy Court.

23
24 **38. Applicable Non-Bankruptcy Law.** Pursuant to Bankruptcy Code sections
25 1123(a) and 1142(a), the provisions of this Confirmation Order, the Plan and related documents,
26 or any amendments or modifications thereto, shall apply and be enforceable notwithstanding any
27 otherwise applicable non-bankruptcy law, rule or regulation.

EXHIBIT A

**UNITED STATES BANKRUPTCY COURT
DISTRICT ARIZONA**

In re

ACCIPITER COMMUNICATIONS,
INC., d/b/a ZONA
COMMUNICATIONS,

Debtor.

Chapter 11
Case No. 2:14-bk-04372-GBN

**NOTICE OF ENTRY OF ORDER
APPROVING SECOND AMENDED
CHAPTER 11 PLAN OF
REORGANIZATION PROPOSED BY
PINPOINT HOLDINGS, INC. AND THE
OFFICIAL COMMITTEE OF UNSECURED
CREDITORS**

PLEASE TAKE NOTICE that, on December [14], 2016, the United States Bankruptcy Court for the District of Arizona entered the *Findings of Fact, Conclusions of Law and Order Approving the Second Amended Chapter 11 Plan of Reorganization Proposed by Pinpoint Holdings, Inc. and the Official Committee of Unsecured Creditors* (Docket No. [REDACTED]) (the “**Confirmation Order**”) confirming the *Second Amended Chapter 11 Plan of Reorganization Proposed by Pinpoint Holdings, Inc. and the Official Committee of Unsecured Creditors* (Docket No. 368) (the “**Plan**”).

PLEASE TAKE FURTHER NOTICE that copies of the Plan, Confirmation Order, and any other related documents may be obtained by writing to counsel to the Committee: Alisa C. Lacey, or Christopher C. Simpson, Stinson Leonard Street LLP, 1850 North Central Avenue, Suite 2100, Phoenix, Arizona 85004, Alisa.Lacey@stinson.com or Christopher.Simpson@stinson.com. In addition, copies of any pleadings filed in this Chapter 11 Case remain on file with the Office of the Clerk of the Court and viewable through access to the PACER and ECF system.

December [REDACTED], 2016.

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